

REMARKS

Claims 1-12, 24-26 and 34-36 are pending. Claim 47 has been canceled. Claims 1 and 26 have been amended. Support for the amendments can be found throughout the application as originally filed. No new matter has been added.

Applicants thank Examiner Lambertson for the telephone interviews of October 3, 2005 and October 20, 2005. Applicants also thank Examiner Lambertson for informing Applicants' representative that he will no longer be handling this application and for bringing the amendments discussed by Applicants' representative and Examiner Lambertson to the attention of James Ketter who will continue to oversee the prosecution of this application.

Rejection of Claims 26 and 34 Under 35 U.S.C. §112, second paragraph

Claims 26 and 34 are rejected under 35 U.S.C. §112, second paragraph, "as being indefinite" Because claim 26 "is dependent on itself".

Claim 26 has been amended to depend from claim 24, thereby obviating this rejection.

Rejection of Claims 1-12, 24, 25, 34-36 and 47 Under 35 U.S.C. §103(a)

Claims 1-12 are rejected under 35 U.S.C. §103(a) "as being unpatentable over Kingsman ... in view of Lin (US 5,861,155)." According to the Examiner

Lin teaches that polylinker containing restriction sites such as SfiI or NotI are convenient for cloning purposes

It would be obvious for the ordinary skilled artisan to use NotI, SfiI, PacI or PI-SceI as the restriction sites in the '3 LTR region of the vector taught by Kingsman because Kingsman specifically says that engineering the '3 LTR of their vector contains restriction sites useful for cloning of alternative promoters is desirable, and Lin specifically indicates that restriction sites such as NotI or SfiI are useful for cloning purposes.

The claims, as amended, recite that the '3 LTR consists of a rare cutter restriction site selected from the group consisting of: a NotI site, a SfiI site, a PacI site a P1-SceI site, and combinations thereof. Contrary to the assertions made in the office action, Lin does not teach or

suggest that SfiI and NotI specifically are useful for cloning purposes. Instead, Lin discloses a polylinker that has all of the following restriction sites,

XhoI/XbaI/SfiI/NotI/EcoRI/EcoRV/HindIII/ClaI 3, is convenient for gene cloning. The rest of Lin uses various other restriction enzymes or combination of restriction enzymes. There is absolutely nothing in the Lin reference that would motivate a skilled artisan to chose SfiI or NotI over all of the other restrictions enzymes of the polylinker. Thus, Kingsman and Lin et al., alone or in combination, do not render obvious the claimed vector that has an 'LTR consisting of the specific rare cutter enzymes.

Claims 24, 25, 36-37 and 47 are also rejected under 35 U.S.C. §103(a) "as being unpatentable over Kingsman and Lin (as applied to claim 1-12 above), and further in view of Beach et al."

As discussed above, Kingsman and Lin, either alone or in combination, do not teach or suggest the claims vectors. The teachings of Beach et al. do not make up for the deficiencies of Kingsman and Lin.

For the reasons discussed above, Applicants respectfully request that the Examiner withdraw this rejection.

Applicant : George Q. Daley et al.
Serial No. : 09/982,223
Filed : October 18, 2001
Page : 7 of 7

Attorney's Docket No.: 00108-147001

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 11/14/05

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

Laurie Butler Lawrence

Laurie Butler Lawrence
Reg. No. 46,593